

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

STEPHANIE JOHNSON,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO.: 3:18-cv-805-WC
)	
NANCY A. BERRYHILL,)	
Acting Commissioner of Social Security,)	
)	
Defendant.)	

MEMORANDUM OPINION AND ORDER

Pending before the court is the Acting Commissioner of Social Security’s Motion for Entry of Judgment with Remand pursuant to 42 U.S.C. § 405(g). (Doc. 17). In the motion, the Acting Commissioner states remand is necessary so that the Appeals Council may consider Plaintiff’s claim pursuant to the Supreme Court’s recent decision in *Lucia v. SEC*, 138 S. Ct. 2044 (2018). Plaintiff raised the issue of the applicability of *Lucia* after this matter was filed in this court and does not oppose Defendant’s motion. Doc. 17 at 1-2.

Sentence four of 42 U.S.C. § 405(g) authorizes the district court to “enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing.” 42 U.S.C. § 405(g). The district court may remand a case to the Commissioner for a rehearing if the court finds “either . . . the decision is not supported by

substantial evidence, or . . . the Commissioner or the ALJ incorrectly applied the law relevant to the disability claim.” *Jackson v. Chater*, 99 F.3d 1086, 1092 (11th Cir. 1996).

In this case, the court finds reversal and remand necessary as Defendant concedes that the Agency needs to reassess whether it correctly applied the law in its handling of Plaintiff’s claim in light of recent Supreme Court authority.

Accordingly, it is

ORDERED that the Commissioner’s Motion (Doc. 17) is GRANTED; for the reasons set forth in the Motion and in this Order, the decision of the Commissioner is REVERSED and REMANDED for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g).

A separate judgment will issue.

Done this 7th day of March, 2019.

/s/ Wallace Capel, Jr.
CHIEF UNITED STATES MAGISTRATE JUDGE